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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,885

07/20/2004

Sou Kuroiwa

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7590

07/28/2009

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WASHINGTON, DC 20036

EXAMINER

WEINSTEIN, LEONARD J

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

07/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/501,885

Applicant(s)

KUROIWA ET AL.

Examiner

LEONARD J. WEINSTEIN

Art Unit

3746

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 6/29/09
13. ☐ Other: _____.

/Devon C Kramer/
Supervisory Patent Examiner, Art Unit 3746

/Leonard J Weinstein/
Examiner, Art Unit 3746

Continuation of 11, does NOT place the application in condition for allowance because:

1. After a thorough review or the office action of March 30, 2009, and the prior art of Karjiwara, '972, '033, and '403, it has been determined that the amendments do not put the claims in condition for allowance because the modification suggested by the examiner would incorporate standard o-rings. In the office action of March 30, 2009 the examiner asserted that it would have been obvious to one of ordinary skill in the art to "modify the transition portion between a bottom and top section of a bottom wall of an interstage casing as taught by the prior art disclosed by Kajiwara '972, to have an o-ring fitted into a space between casings, as taught by Kajiwara '033 and Kajiwara '403" at the time of the instant invention. Office Action of March 30, 2009, page 4. The combination suggested by the examiner incorporates the o-ring taught by Kajiwara '403, disclosed as being a "general O-ring." (Kajiwara '403 - col. 2 ll. 29). Therefore any combination to the prior art of figure 6 of the Kajiwara '972 in which a transition portion was modified to house an o-ring would be made so that the transition portion would accommodate a general o-ring. Therefore the combination teaches the limitations that were added in the amendment of June 29, 2009 of an o-ring being a standard o-ring.

2. The applicant argues that one of ordinary skill in the art would modify the interstage casing disclosed in figure 6 of Kajiwara '972 in which a space is formed without a relief plate for fitting an O-ring. The examiner disagrees and notes that the modification suggested by the examiner, in which the relief plate of the prior art of figure 6 of Kajiwara '972 was left unaltered, would result in the arrangement similar to that of Lovisietto EP 0055426 in which a space for an o-ring is formed by a partition member 12 and a recessed region 13 of a case 11. The examiner notes that a modification in which the transition portion were modified would result in the arrangement of Lovisietto because there would be no need to provide the curved cylindrical portion 25 of Kajiwara '033 because, the side wall (7 of figure 6 of Kajiwara '972) would be left to come into abutment with the adjacent interstage case (1 of figure 6 of Kajiwara '972).

3. The applicant argues that the embodiments of Fig. 1 and 2 of Kajiwara '972, Fig. 1 in Kajiwara '033, and Figs. 1 and 2 of Kajiwara '403 are similar to the prior art shown in figure 7 of the instant application. The applicant argues that the instant disclosure states that the prior art of figure 7 in the instant application, poses the issue of an interstage casing that varies in shape and therefore requires a special o-ring. The examiner notes that the instant specification contradicts the actual disclosure of Karjiwara '403 in which it is disclosed that "[a]n o-ring can be mounted on the recessed portion, therefore, the interstage casing can employ an o-ring which is most commonly used as an interstage seal in multistage pumps" (Kajiwara '403 - col. 3 ll. 23-27). This disclosure states that an o-ring that is commonly used, therefore standard to those skilled in the art, would be installed in the casings.

4. The applicant argues that one of ordinary skill in the art would not use the space formed by the side wall 7 of fig. 6 of Kajiwara '972 because it is too big for an o-ring to function properly. The examiner notes that the applicant cited the disclosure in column 2 lines 16-17 of Kajiwara '972 because it is stated that there is no space for an o-ring. The examiner notes that the applicant's reading of this disclosure is too narrow. Karjiwara '972 discloses "no installation space is available between the interstage casings for O-rings that are widely used in pump casings made by casting." The pump casing of figure 6 of Kajiwara '972 is formed from pressed sheet metal and not made by casting. The applicant's argument overlooks the fact that the instant reference identified a specific type of o-ring that is commonly used for a different kind of pump casing than the one cited as a based reference by the examiner (fig. 6 of Kajiwara '972). Therefore Kajiwara '972 does not stand for the proposition that there is no installation space in the prior art shown in figure 6 for any type of o-ring, only the type of o-rings that are used for a pump casing that is made by casting. The applicant's argument also overlooks that the examiner suggested a combination in which that space would be modified to accommodate an o-ring.

5. The applicant's argument that if the side wall of figure 6 of Kajiwara '972 was held in contact with interstage casing would result in surfaces 3b and 4b being separated from each other is speculative. The prior art shows the side wall 7 abutting the inner surface of the interstage casing 1 and the surfaces 3b and 4b fitting one over the other to form a spigot (Kajiwara '972 - col. 1 ll. 32-35).

6. The examiner notes that claims 1 and 2 would benefit from the incorporation of parts of the disclosure in the instant application on page 5, line 20 through page 6, line 10. Specifically the disclosure of "a protruding portion 22 protruding radially outward from the cylindrical side portion 21, a stage flat portion 23 extending radially inward from the protruding portion 22 The protruding portion 22 has an outside diameter larger than the outside diameter of the cylindrical side portion 21. The stage side portion 24 has an outside diameter slightly smaller than the inside diameter of the cylindrical side portion 21. The stage flat portion 23 is arranged so as to be perpendicular to the cylindrical side portion." The examiner notes that these structural aspects of the instant invention define the actual space that is formed which accommodates an o-ring and distinguishes over the prior art of Kajiwara '972, '033, '403, and as well as previously cited Lovisietto EP 0055426 and Chien et al. US 6,439,835.